

**Oroville Facilities Relicensing
Federal Energy Regulatory Commission Project No. 2100
Draft Summary of the Plenary Group Meeting
March 23, 2004**

The Department of Water Resources hosted a meeting for the Plenary Group on March 23, 2004 in Oroville. A summary of the discussion, decisions made, and action items is provided below. This summary is not intended to be a transcript of the meeting, or to indicate agreement or disagreement with any of the items summarized, except where expressly stated. The intent is to present a summary for interested parties who could not attend the meeting. The following are attachments to this summary.

Attachment 1	Meeting Agenda
Attachment 2	Meeting Attendees
Attachment 3	Process Update Presentation
Attachment 4	Pending Study Plan Report Completion Schedule
Attachment 5	Settlement Process Preview Presentation
Attachment 6	Settlement Kick-Off Meeting Announcement handout
Attachment 7	Work Group Meeting Abstracts
Attachment 8	Environmental Work Group Resource Action Presentation
Attachment 9	Environmental Work Group Resource Action Matrix
Attachment 10	Fishery Improvement Program Flow Chart
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Attachment 13	Lake Oroville SRA General Plan & Oroville Facilities Relicensing Presentation
Attachment 14	Revised Patrick Porgans Letter

Welcome and Introductions

Attendees were welcomed to the Plenary Group meeting and introduced themselves and their affiliations. The Facilitator reviewed the proposed agenda and desired outcomes for the meeting. The proposed agenda and a list of meeting attendees are appended to this summary as Attachments 1 and 2, respectively.

Process Update

Mark Andersen (DWR) provided an update on the relicensing process. The presentation is included as Attachment 3. The overall schedule was reviewed and key delivery milestones identified. DWR plans to release its Initial Offer of Settlement (a first draft of the Settlement Agreement) to the Settlement Negotiation Group (SNG) at the end of April 2004. The draft Preliminary Draft Environmental Assessment (PDEA) will also be made available at the end of April 2004 to help facilitate settlement negotiation discussions starting in May. DWR distributed a document to the Plenary Group that lists pending Study Plan reports and an anticipated completion schedule (Attachment 4). Mark pointed out that most of the pending study reports will be completed by May – June 2004, but that a few would continue beyond that timeframe.

Mark informed participants that the Draft PDEA and non-environmental License application exhibits will be released in April. He noted that the Plenary Group could skip their April meeting and next meet in May at which time they would receive the Environmental Work Group's Resource Action recommendations and have the opportunity to discuss the Draft PDEA.

Harry Williamson with the National Park Service asked if anyone was exercising 4(e) conditions on this project. Mark replied that he thought informal comments had been provided from U.S. Forest Service. Ward Tabor (DWR) explained to participants that 4(e) refers to a section of the Federal Power Act that empowers federal land management agencies to enforce the inclusion of requirements that protect and/or manage resources on their jurisdictional land.

Sharon Stohrer with the State Water Resources Control Board asked if the Bureau of Land Management (BLM) has shown any interest or intention in participating in the relicensing process and thus invoking any 4(e) requirements. The Facilitator noted that BLM has been active in the Cultural Resources Work Group and interacted with the Land Use, Land Management and Aesthetics Work Group.

Settlement Process Update

Rick Ramirez (DWR) provided the Plenary Group with an update on the Settlement Process. The presentation is included as Attachment 5. Rick explained that the 'Initial Offer' or 'Draft Offer' is a starting point to help facilitate settlement discussions and is not a 'take it or leave it' proposal. Rick explained that DWR believes confidentiality is an important element in settlement discussions enabling creative solutions to address issues. DWR will provide those that sign the confidentiality agreement with a copy of the Initial Offer of Settlement (IOS). He pointed out that no written comments were requested but rather participants should bring their ideas and comments to the settlement discussions. DWR sees the IOS and the settlement negotiations as the beginning of a process and Rick acknowledged there is more work to be done.

Rick told participants that DWR is aware that federal, State and local agencies have different rules and requirements concerning confidentiality. DWR's expectation is that each agency will comply with the settlement negotiation confidentiality ground rules in accordance with their own rules and requirements. Rick acknowledged there is a limited amount of time to reach settlement on a significant number of issues and that careful time management will be crucial. DWR intends to submit the Settlement Agreement with its License Application in January 2005.

Participants were reminded of the March 30, 2004 and April 20-21 Settlement Negotiation Group (SNG) Kick-Off meetings and site tour. Rick noted that meeting and tour information is posted on the web site; the meeting announcement was distributed and is provided as Attachment 6. The meetings will be logistical in nature and used to familiarize new participants with the Project site and some basic issues.

DWR asked the Plenary Group participants to identify who will attend the meetings for their organization and who will be the primary negotiator. It is anticipated and understood that support staff will accompany the primary negotiator but only the primary negotiator will have a seat at the settlement table. The goal is to be as productive as possible; the Facilitator will be going over ground rules to ensure productive conversations. Rick reminded participants that the second day of the March 2004 site tour was canceled.

Cathy Hodges asked if Rick could briefly describe what the tour will cover. Rick explained that DWR selected sites that include multiple interests and issues; RAMs will discuss some of the studies related to the sites during the tour. The purpose is to bring newly involved people up to a common level of understanding about the Project location and features. Ward Tabor explained the tour includes Foreman Creek, Bidwell Marina and Campground, the Diversion Pool/Low Flow Channel and the Afterbay/Oroville Wildlife Area. Cathy Hodges suggested that both shores of the Diversion Pool should be included because there are many resource actions

proposed to develop multi-use areas on both sides. DWR will consider including both sides in the tour if time allows.

Kevin Zeitler representing the Oroville Recreation Advisory Committee (ORAC) asked how the confidentiality agreement would be distributed. He noted that ORAC had not seen the exact language in the agreement and he has concerns regarding confidentiality. Rick replied that the Confidentiality Agreement language should be distributed in advance of the March 30, 2004 meeting. Ken Kules pointed out that confidential issues will not be discussed until May SNG meetings. Rick replied that this was true but DWR would like the negotiators to sign Confidentiality Agreements before the May meeting.

Cathy Hodges stated that the Confidentiality Agreement must take into account public representatives that need to report to multiple and public constituencies with this information. Ward Tabor responded that DWR respects the need of local government to represent their constituencies and to comply with their own interpretations of the Brown Act. He noted that the Confidentiality Agreement requires as much confidentiality as is possible by law. Rick read directly from the process protocol section that describes the confidentiality requirement.

Mary Weston (Chico Enterprise Record) voiced concern that the Confidentiality Agreement denies the public access to information generated by a public agency. She stated that she does not want to attend all of the meetings but would like to go to milestone meetings. How will that info be shared with the public and the media? Rick suggested that this would be one of the first things the SNG would address. He added that the revised Process Protocols outline a process that the SNG will use to provide media updates.

Wade Hough (ORAC) asked if participants are required to sign the confidentiality Agreement to participate in settlement negotiations. Rick replied that it is not required but refusal to sign could have repercussions for the success of the process. Harry Williamson (NPS) pointed out that the presentation clearly states to get a copy of the IOS, participants must sign the Confidentiality Agreement. He added that some sort of agreement regarding confidentiality is useful in settlement negotiations. Rick Ramirez told the Plenary Group that he feels the ground rules are clear and DWR believes these rules will give the process the best chance for success. The issue of confidentiality will be discussed at the March 30 SNG kick-off meeting.

Sharon Stohrer (SWRCB) asked for clarification of the Plenary Group role, moving forward during the settlement negotiation phase of relicensing. Rick Ramirez pointed out that the Plenary Group would continue to receive RA updates from the work groups as needed. He suggested that while the Plenary Group would be meeting less frequently as negotiations move into high gear, periodic updates to advise on progress of settlement would be made available via SNG briefs. The Facilitator clarified that the SNG would also approve and provide updates on settlement negotiation progress to the media.

Kevin Zeitler asked where the negotiation meetings would be held. Rick Ramirez replied that the meeting locations would be balanced between Sacramento and Oroville to encourage participation by representatives of all interested stakeholders. The SNG will decide meeting locations and meeting times. Rick reminded the Plenary Group to RSVP for the March 30 SNG kick-off meeting as soon as possible.

Meeting Summary and Action Items – January 27, 2004

Work Group Meeting Abstracts

The Facilitator informed participants that abstracts covering work group meetings held since the last Plenary Group meeting are included with the meeting agenda. Meeting abstracts are included as Attachment 7. More detailed work group meeting summaries are posted on the Oroville Facilities Relicensing web site. The Facilitator reminded participants that revisions or corrections to Plenary Group meeting summaries are to be submitted directly to her. Hard copies of the January 27, 2004 meeting summary and attachments were available at today's meeting.

Action Items – January 27, 2004

The Facilitator reviewed the status of action items from the January 27, 2004 Plenary Group meeting as follows:

Action Item #146: Provide any factual corrections to the documents or identify specific omissions or deviations relative to the agreed on scopes of work for distributed studies by February 29, 2004 to Rick Ramirez, Manager of the DWR's Oroville Facilities Relicensing Program, 1416 Ninth Street, Room 1601, Sacramento, California 95814

Status: A reminder to the collaborative to provide comments to Rick Ramirez within 30 days of study release.

Action Item #147: DWR to provide a list of remaining study reports to be delivered and anticipated delivery dates.

Status: Mark Andersen provided this list as a handout to this meeting, Attachment 4. Ward Tabor pointed out that several reports on the list are identified with delivery beyond the application date such as cultural (C2). Mark Andersen explained that this was due to prehistoric studies that won't be complete until 2006, however a draft Historic Properties Management Plan (HPMP) is intended to be part of the Settlement and submitted to FERC with the January 2005 License Application. Additionally the Water Quality studies include two years of data collection so reports may come out after January 2005.

Action Item #148: Ask the RSWG to reconsider placement of the six proposed Resource Actions identified by the JPA

Status: Doug Rischbieter (DWR) provided a recap of the information related to this Action Item. At the last Plenary Group meeting Doug presented the results of the work group efforts, a RSWG Resource Actions matrix with 234 RAs that had been categorized based on stakeholder comments, ideas and proposals. The RSWG had placed RAs in one of four categories: "A" List – Proposed RAs recommended for detailed environmental analysis; "B" List – Proposed RAs not recommended for environmental analysis; "S" List – Proposed RAs most appropriate for settlement discussions; "T" List – Trails-related RAs for separate analysis and General Planning. The JPA asked DWR in writing to move four "B" category items to the "A" category. However, during RSWG discussions, the participants agreed to drop the request to move the RAs, provided all of the RAs on the four lists were considered for discussion at the scheduled cross-resource meeting between RSWG, EWG, and EOWG. The RAs on all four lists were considered so no movement occurred.

Work Group Resource Action Presentation

Environmental Work Group

Terry Mills (DWR), Resource Area Manager for the Environmental Work Group (EWG) gave a presentation (Attachment 8) on the EWG RA development process and handed out a matrix list of categorized proposed RAs (Attachment 9) with three flow charts outlining the Fishery Improvement Program (Attachment 10), the Vegetation and Wildlife Management and Enhancement Program (Attachment 11) and the Water Quality Program (Attachment 12). Terry explained that the purpose of his presentation is to outline the current status of RA development in the EWG and share the EWG RA Matrix & Action Charts.

Terry explained that the EWG is primarily made up of scientists and technically oriented environmental experts, thus the RA development is driven by science and is done collaboratively and objectively. The EWG tends to take a non-positional view on actions and works to assemble enough data and information to make an informed science-based judgment on whether a RA should be recommended for further consideration. Currently, there are about 60 RAs that are considered “active” and are moving forward. RAs are organized based on three characteristics: 1) Scope, 2) Action Type and, 3) Issue Area. Geographic scope includes the Lower River, Thermalito Complex, Lake Oroville, and the watershed above Lake Oroville. Actions include operational changes, flow changes and any construction activities. The issue areas are fisheries, terrestrial resources, water quality, and fluvial processes.

Terry explained how the EWG worked to develop a credible process to identify potential RAs and begin discussions. This process included interviews with study leads, Identification of goals, issues and Project impacts, evaluation of currently available study data and identification of relevant forthcoming data, and on-going discussions of suggested potential resource actions with the EWG. A Primary Action List was identified within the EWG that contained general categories of most interest including flow, temperature, fish habitat, terrestrial/riparian habitat, hatchery, fish passage, coarse gravel supply and invasive species control.

Specific EWG task forces were convened for Fisheries, Water Quality, Terrestrial, Fluvial, Hatchery and Flow/Temperature issues. These task forces provide recommendations to the EWG. The EWG produced a Matrix Table to track and identify the status of Resource Actions (Attachment 9). To date, about 60 Resource Actions are active and moving forward. Within the table, the second column identifies where the RA occurs and what it affects. The Cross-resource area effect refers to any identified interface with other resource areas.

Each RA falls into one of five categories as indicated in the legend on the Matrix Table. Of the 60 active RAs, 19 are ready to be evaluated, 40 await additional information from ongoing studies, 7 need additional studies not currently planned, 9 require no further action, and 30 are duplicates. Terry pointed out that the EWG uses the term “program” to name logical groupings of Resource Actions that are related by type, location, and specific issue. Programs are not intended to imply anything else and are not linked to settlement.

The Fishery Improvement Program groups RAs dealing with Lake Oroville, the Forebay/Afterbay, the Oroville Wildlife Recreation Area, the Low Flow Channel, the High Flow Channel, the Feather River Fish Hatchery, fish genetics, and fish passage. Terry provided a RA Flow Chart Diagram for the Fishery Improvement Program (Attachment 10). The colors in this flow chart identify the category status and where individual RAs logically group together.

The Vegetation and Wildlife Program encompasses invasive species control, threatened and endangered species protection, habitat protection and enhancement of Lake Oroville, the

Afterbay, the Oroville Wildlife Recreation Area, and the Lower Feather River. Terry provided a RA Flow Chart Diagram for the Vegetation and Wildlife Program (Attachment 11).

The Water Quality Program has three components; water quality improvement, water quality education, and temperature control. Terry provided a RA Flow Chart Diagram for the Water Quality Program (Attachment 12).

The Plenary Group discussed ongoing cross resource discussions between RAMS and at joint work group meetings and noted that some cross resource effects can be both beneficial and constraining. Terry offered the example of the positive impact to recreation by providing more diverse fishing opportunities (such as ponds, and diversified fish habitats) while negative impacts to recreation may include access limitations to protect endangered species. Eric Zigas (City of Oroville) pointed out that EWG 1 is addressing the same area where a recreation RA proposes construction of a whitewater park and the potential relationship of that project to environmental issues should be discussed. Terry noted that on page 5 of the matrix, the top four RAs deal with recreational fishing, with overlapping recreation and environmental concerns and pointed out that the Fishery Improvement Program Flow Chart outlines some 'recreational' enhancements. Cross resource discussions are helping to refine these actions.

The Plenary Group discussed the effects of changes to flows, temperatures, and power production and the apparent contradictions between EWG 15A and 15B related to incremental flow release increases to accommodate spawning salmonids. Wayne Dyok (MWH) explained that the two proposals represent options that might be used to address the issue. Terry Mills added that the EWG has put together narrative reports that explain the RAs in much greater detail. Based on the goal, many of them are mutually exclusive, but provide a diversity of actions to meet the requirements. Terry noted that the narrative reports are posted as part of the EWG meeting summaries on the Project web site.

Ken Kules asked if there is a plan to put together a package of less technical summary information to assist the laypeople in understanding the technical issues during settlement negotiations. Rick Ramirez said there is no plan to create such a summary package but reminded the Plenary Group that all of the study results are available on the web site and that the SNG may opt to develop technical sub groups to address specific technical issues.

Department of Parks and Recreation General Plan Update

Bob Hare, representing Department of Parks and Recreation (DPR) gave a presentation on the Lake Oroville State Recreation Area (LOSRA) General Plan update about to begin (Attachment 13). Bob outlined the need for a General Plan, stating that the public Resources Code requires a General Plan prior to the development of permanent facilities, and the existing 1973 Plan and 1988 Amendment are considered outdated. DPR feels that the DWR relicensing process presents a timely opportunity for a General Plan update, and doing so would coordinate the public benefits of the LOSRA and Oroville facilities. The proposed General Plan would be evaluated by a Tier-1 Programmatic-Level EIR with broad conceptual analysis of potential impacts of plan proposals. Specific projects constructed after the General Plan is approved would be subject to project-specific or Tier-2 Level CEQA analysis with detailed evaluation of potential impacts of funded proposed development and management projects.

Bob described DPR's broad objectives to protect and perpetuate the LOSRA's natural, cultural, and recreational resources, to plan facilities to meet current and future recreational demand, and to determine appropriate educational services and facilities. There is no specified lifespan

for the General Plan and they are amendable when changing park conditions and/or requirements necessitate substantial changes to park management.

The General Plan would contain a summary of existing conditions, planning influences, issues analysis, purpose and vision, management goals and guidelines, adaptive management process, and environmental analysis. Bob clarified that "Planning Influence" refers to site-specific consideration of carrying capacity, traffic, air and water quality, etc.

The General Plan does not specify exact locations, design, costs, priorities, or implementation schedules of proposals, so the Tier-1 Programmatic-Level EIR does not include detailed site-specific surveys, mapping, impact analysis, and mitigation descriptions, as they are deferred to subsequent Tier-2 EIRs.

Harry Williamson asked whether the adaptive management program enables DPR to react and change the management approach without amending the General Plan each time. Bob responded that the adaptive management does help the SRA more effectively adjust without amendments. Through effective coordination, DPR intends to use planning information provided by DWR's Study Plan reports. Additional information sources will include DPR's resource specialists, organizations, agencies, and Native American Tribes. Public input will help identify and resolve issues, gather information and perspectives, identify public needs and concerns, and build partnerships and support to implement the General Plan's proposals.

Bob told the Plenary Group that DPR intends to use the Oroville Relicensing mailing list to solicit public involvement. Public involvement opportunities include scoping meetings, public comment during the 45-day CEQA review process, and a State Parks Commission Hearing. He explained that the group would consider concepts behind Relicensing Work Group proposals as a beginning and augment with any new General Plan issues that are raised in the General Plan Public Process.

DPR's LOSRA General Plan and DWR's Recreational Resources Management Plan (RRMP) are parallel but different documents, as the LOSRA plan is broader and more conceptual, but applying to a smaller area. DPR's LOSRA General Plan will be coordinated with other DWR Resource Management Plans such as the Historic Properties Management Plan (HPMP). Planning is currently in the information gathering stage, with a draft expected in December 2004. There will be a scoping meeting held on Wednesday, April 14, 2004 from 7-9 pm at Oroville's Municipal Auditorium. The meeting has been noticed to public on the DPR web site and in the local newspaper.

Bob concluded by noting that the General Plan update is not a part of the Oroville Facilities Relicensing or Settlement Process however, the General Plan will be a support document of DWR's relicensing application that presents an integrated "big picture" view of the SRA's recreation, education, and resource protection programs.

Tom Berliner commented on the potential issue of segmentation in what DPR is doing and DWR's PDEA and subsequent document. Bob responded that a General Plan applies to a smaller area, and that the DWR RRMP covers the entire FERC project boundary. Tom said that under CEQA, a project couldn't be segmented and asked how one goes about carving out this piece and how DWR is addressing this issue in the context of its CEQA document.

Doug Rischbieter offered that the DPR General Plan is required by the state code and is high level and general. The RRMP to be submitted to FERC will have very specific information and timetables. Ward Tabor added that the primary issue with segmentation is in not fully disclosing

all aspects of the project but in this case, the General Plan will clearly identify the more detailed DWR RRMP. The DWR RRMP and environmental document will clearly disclose the parallel planning process by DPR. DPR will provide a policy approach and DWR specific management plan will build on that and develop specifics. Ward added that DWR might build from DPR's EIR.

Roger Masuda (Butte County) asked which plan would take precedence if there were a conflict. Bob responded that their intent was to avoid any conflict, as this situation would only occur if there were inconsistencies between the two. He doesn't expect this to be an issue. Rick Ramirez noted that the reason DWR is working with DPR is to avoid the scenario Roger suggests.

Harry Williamson asked why DPR wouldn't wait until DWR files their License Application and RRMP to finalize its General Plan to avoid any conflict. He asked what is driving the December deadline and can it be extended out as far as February 2005. Bob Hare responded that he understood that DWR would like to include this as part of the License Application package. He said a draft of the General Plan could be revised prior to going to the State Recreation Commission for approval, and that DPR may want to consider waiting to circulate the draft CEQA document. Ron Davis respectfully requested that a detailed plan be developed.

Rick Ramirez would like to direct FERC's attention to the DPR General Plan and use DWR's RRMP to show its consistency with the DPR General Plan. Detailed plans for specific projects would be included in the RRMP and included in the subsequent environmental analysis. Sharon Stohrer pointed out that the more detail included in the RRMP and identified relationships to components of the DPR General Plan, the more is potentially included in FERC's jurisdictional part of the new License. She suggested that this federal oversight should be carefully considered and participants might wish to consider allowing certain items to be settlement elements but not License Terms and Conditions. Rick Ramirez reminded everyone that DWR is required to follow FERC License conditions, but DPR is not so, DWR wants to coordinate with DPR to preclude any disconnects. The Plenary Group discussed the need for adequate funding for the next License term and the potential impacts statewide budget cuts could have on the facilities. Harry Williamson noted that in relicensing much of this funding responsibility, including adequate O&M costs, under the new License would be DWR's.

DPR is developing a Notice of Preparation to announce the scoping meeting and will be using the collaborative mailing list as a base to build from in terms of public outreach.

Next Steps

The Plenary Group agreed to cancel the April Plenary Group meeting and next meet on May 18, 2004 with the time and location to be determined. The agenda will include a second presentation by the EWG on their RAs and a briefing on the draft PDEA Summary document scheduled for release April 30, 2004.

Rick Ramirez provided the Plenary Group with a revised letter submitted by Patrick Porgans. The original letter was filed with FERC and DWR prior to the January Plenary Group meeting. DWR had some concern with some of the content that Patrick attributed directly to stakeholders. Patrick revised his letter (Attachment 14). Tom Berliner asked if DWR would respond to Patrick's letter and Rick responded that DWR would not respond directly to Patrick, as the topics were discussed during meetings of the Collaborative, during which time DWR stated its perspective.

Action Item

The following action item identified by the Plenary Group includes a description of the action, the participant responsible for the action, and the due date.

Action Item #149: Consider including both sides in the tour if time allows.
Responsible: DWR
Due Date: March 30, 2004